

SECOND REGULAR SESSION

SENATE BILL NO. 565

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3301S.011

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof ten new sections relating to leave from employment, with a referendum clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 143.121, RSMo, is repealed and ten new sections enacted in lieu thereof, to be known as sections 143.121, 285.400, 285.405, 285.410, 285.415, 285.420, 285.425, 285.430, 285.435, and 285.440, to read as follows:

143.121. 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(1) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(2) Interest on certain governmental obligations excluded from federal gross income by 26 U.S.C. Section 103 of the Internal Revenue Code, as amended. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (1) of subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of 26 U.S.C. Section 265 of the Internal Revenue Code, as amended. The reduction shall only be made if it is at least five hundred dollars;

(3) The amount of any deduction that is included in the computation of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 federal taxable income pursuant to 26 U.S.C. Section 168 of the Internal Revenue
19 Code as amended by the Job Creation and Worker Assistance Act of 2002 to the
20 extent the amount deducted relates to property purchased on or after July 1,
21 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the
22 amount that would have been deductible pursuant to 26 U.S.C. Section 168 of the
23 Internal Revenue Code of 1986 as in effect on January 1, 2002;

24 (4) The amount of any deduction that is included in the computation of
25 federal taxable income for net operating loss allowed by 26 U.S.C. Section 172 of
26 the Internal Revenue Code of 1986, as amended, other than the deduction allowed
27 by 26 U.S.C. Section [172(b)(1)(G)] **172(b) (1) (F)** and 26 U.S.C. Section [172(i)]
28 **172(h)** of the Internal Revenue Code of 1986, as amended, for a net operating loss
29 the taxpayer claims in the tax year in which the net operating loss occurred or
30 carries forward for a period of more than twenty years and carries backward for
31 more than two years. Any amount of net operating loss taken against federal
32 taxable income but disallowed for Missouri income tax purposes pursuant to this
33 subdivision after June 18, 2002, may be carried forward and taken against any
34 income on the Missouri income tax return for a period of not more than twenty
35 years from the year of the initial loss; and

36 (5) For nonresident individuals in all taxable years ending on or after
37 December 31, 2006, the amount of any property taxes paid to another state or a
38 political subdivision of another state for which a deduction was allowed on such
39 nonresident's federal return in the taxable year unless such state, political
40 subdivision of a state, or the District of Columbia allows a subtraction from
41 income for property taxes paid to this state for purposes of calculating income for
42 the income tax for such state, political subdivision of a state, or the District of
43 Columbia;

44 (6) For all tax years beginning on or after January 1, 2018, any interest
45 expense paid or accrued in a previous taxable year, but allowed as a deduction
46 under 26 U.S.C. Section 163, as amended, in the current taxable year by reason
47 of the carryforward of disallowed business interest provisions of 26 U.S.C. Section
48 163(j), as amended. For the purposes of this subdivision, an interest expense is
49 considered paid or accrued only in the first taxable year the deduction would have
50 been allowable under 26 U.S.C. Section 163, as amended, if the limitation under
51 26 U.S.C. Section 163(j), as amended, did not exist.

52 3. There shall be subtracted from the taxpayer's federal adjusted gross
53 income the following amounts to the extent included in federal adjusted gross

54 income:

55 (1) Interest received on deposits held at a federal reserve bank or interest
56 or dividends on obligations of the United States and its territories and
57 possessions or of any authority, commission or instrumentality of the United
58 States to the extent exempt from Missouri income taxes pursuant to the laws of
59 the United States. The amount subtracted pursuant to this subdivision shall be
60 reduced by any interest on indebtedness incurred to carry the described
61 obligations or securities and by any expenses incurred in the production of
62 interest or dividend income described in this subdivision. The reduction in the
63 previous sentence shall only apply to the extent that such expenses including
64 amortizable bond premiums are deducted in determining the taxpayer's federal
65 adjusted gross income or included in the taxpayer's Missouri itemized
66 deduction. The reduction shall only be made if the expenses total at least five
67 hundred dollars;

68 (2) The portion of any gain, from the sale or other disposition of property
69 having a higher adjusted basis to the taxpayer for Missouri income tax purposes
70 than for federal income tax purposes on December 31, 1972, that does not exceed
71 such difference in basis. If a gain is considered a long-term capital gain for
72 federal income tax purposes, the modification shall be limited to one-half of such
73 portion of the gain;

74 (3) The amount necessary to prevent the taxation pursuant to this chapter
75 of any annuity or other amount of income or gain which was properly included in
76 income or gain and was taxed pursuant to the laws of Missouri for a taxable year
77 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose
78 death the taxpayer acquired the right to receive the income or gain, or to a trust
79 or estate from which the taxpayer received the income or gain;

80 (4) Accumulation distributions received by a taxpayer as a beneficiary of
81 a trust to the extent that the same are included in federal adjusted gross income;

82 (5) The amount of any state income tax refund for a prior year which was
83 included in the federal adjusted gross income;

84 (6) The portion of capital gain specified in section 135.357 that would
85 otherwise be included in federal adjusted gross income;

86 (7) The amount that would have been deducted in the computation of
87 federal taxable income pursuant to 26 U.S.C. Section 168 of the Internal Revenue
88 Code as in effect on January 1, 2002, to the extent that amount relates to
89 property purchased on or after July 1, 2002, but before July 1, 2003, and to the

90 extent that amount exceeds the amount actually deducted pursuant to 26 U.S.C.
91 Section 168 of the Internal Revenue Code as amended by the Job Creation and
92 Worker Assistance Act of 2002;

93 (8) For all tax years beginning on or after January 1, 2005, the amount
94 of any income received for military service while the taxpayer serves in a combat
95 zone which is included in federal adjusted gross income and not otherwise
96 excluded therefrom. As used in this section, "combat zone" means any area which
97 the President of the United States by Executive Order designates as an area in
98 which Armed Forces of the United States are or have engaged in combat. Service
99 is performed in a combat zone only if performed on or after the date designated
100 by the President by Executive Order as the date of the commencing of combat
101 activities in such zone, and on or before the date designated by the President by
102 Executive Order as the date of the termination of combatant activities in such
103 zone;

104 (9) For all tax years ending on or after July 1, 2002, with respect to
105 qualified property that is sold or otherwise disposed of during a taxable year by
106 a taxpayer and for which an additional modification was made under subdivision
107 (3) of subsection 2 of this section, the amount by which additional modification
108 made under subdivision (3) of subsection 2 of this section on qualified property
109 has not been recovered through the additional subtractions provided in
110 subdivision (7) of this subsection;

111 (10) **The amount contributed to the Missouri earned family and**
112 **medical leave fund established under section 285.435;**

113 (11) For all tax years beginning on or after January 1, 2014, the amount
114 of any income received as payment from any program which provides
115 compensation to agricultural producers who have suffered a loss as the result of
116 a disaster or emergency, including the:

117 (a) Livestock Forage Disaster Program;

118 (b) Livestock Indemnity Program;

119 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised
120 Fish;

121 (d) Emergency Conservation Program;

122 (e) Noninsured Crop Disaster Assistance Program;

123 (f) Pasture, Rangeland, Forage Pilot Insurance Program;

124 (g) Annual Forage Pilot Program;

125 (h) Livestock Risk Protection Insurance Plan; and

126 (i) Livestock Gross Margin Insurance Plan; and

127 ~~[(11)]~~ **(12)** For all tax years beginning on or after January 1, 2018, any
128 interest expense paid or accrued in the current taxable year, but not deducted as
129 a result of the limitation imposed under 26 U.S.C. Section 163(j), as
130 amended. For the purposes of this subdivision, an interest expense is considered
131 paid or accrued only in the first taxable year the deduction would have been
132 allowable under 26 U.S.C. Section 163, as amended, if the limitation under 26
133 U.S.C. Section 163(j), as amended, did not exist.

134 4. There shall be added to or subtracted from the taxpayer's federal
135 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment
136 provided in section 143.351.

137 5. There shall be added to or subtracted from the taxpayer's federal
138 adjusted gross income the modifications provided in section 143.411.

139 6. In addition to the modifications to a taxpayer's federal adjusted gross
140 income in this section, to calculate Missouri adjusted gross income there shall be
141 subtracted from the taxpayer's federal adjusted gross income any gain recognized
142 pursuant to 26 U.S.C. Section 1033 of the Internal Revenue Code of 1986, as
143 amended, arising from compulsory or involuntary conversion of property as a
144 result of condemnation or the imminence thereof.

145 7. (1) As used in this subsection, "qualified health insurance premium"
146 means the amount paid during the tax year by such taxpayer for any insurance
147 policy primarily providing health care coverage for the taxpayer, the taxpayer's
148 spouse, or the taxpayer's dependents.

149 (2) In addition to the subtractions in subsection 3 of this section, one
150 hundred percent of the amount of qualified health insurance premiums shall be
151 subtracted from the taxpayer's federal adjusted gross income to the extent the
152 amount paid for such premiums is included in federal taxable income. The
153 taxpayer shall provide the department of revenue with proof of the amount of
154 qualified health insurance premiums paid.

155 8. (1) Beginning January 1, 2014, in addition to the subtractions provided
156 in this section, one hundred percent of the cost incurred by a taxpayer for a home
157 energy audit conducted by an entity certified by the department of natural
158 resources under section 640.153 or the implementation of any energy efficiency
159 recommendations made in such an audit shall be subtracted from the taxpayer's
160 federal adjusted gross income to the extent the amount paid for any such activity
161 is included in federal taxable income. The taxpayer shall provide the department

162 of revenue with a summary of any recommendations made in a qualified home
163 energy audit, the name and certification number of the qualified home energy
164 auditor who conducted the audit, and proof of the amount paid for any activities
165 under this subsection for which a deduction is claimed. The taxpayer shall also
166 provide a copy of the summary of any recommendations made in a qualified home
167 energy audit to the department of natural resources.

168 (2) At no time shall a deduction claimed under this subsection by an
169 individual taxpayer or taxpayers filing combined returns exceed one thousand
170 dollars per year for individual taxpayers or cumulatively exceed two thousand
171 dollars per year for taxpayers filing combined returns.

172 (3) Any deduction claimed under this subsection shall be claimed for the
173 tax year in which the qualified home energy audit was conducted or in which the
174 implementation of the energy efficiency recommendations occurred. If
175 implementation of the energy efficiency recommendations occurred during more
176 than one year, the deduction may be claimed in more than one year, subject to the
177 limitations provided under subdivision (2) of this subsection.

178 (4) A deduction shall not be claimed for any otherwise eligible activity
179 under this subsection if such activity qualified for and received any rebate or
180 other incentive through a state-sponsored energy program or through an electric
181 corporation, gas corporation, electric cooperative, or municipally owned utility.

182 9. The provisions of subsection 8 of this section shall expire on December
183 31, 2020.

**285.400. 1. The provisions of sections 285.400 to 285.440 shall be
2 known and may be cited as the "Missouri Earned Family and Medical
3 Leave Act".**

**4 2. As used in sections 285.400 to 285.440, the following terms shall
5 mean:**

**6 (1) "Average weekly pay", the total wages earned by an employee
7 in the past twelve months, divided by the number of weeks worked by
8 the employee in such twelve month period, or the weekly salary of the
9 employee at the time that family or medical leave is taken, whichever
10 is greater provided that the average weekly pay shall never exceed the
11 average state weekly pay;**

**12 (2) "Average state weekly pay", the total wages earned by all
13 employees who have contributed to the fund in the past twelve months,
14 divided by the total number of such employees, the quotient of which**

15 is divided by the average number of weeks worked by all employees
16 who have contributed to the fund in the last twelve months;

17 (3) "Care", includes, but is not limited to, physical care, emotional
18 support, visitation, assistance in treatment, transportation, arranging
19 for a change in care, assistance with essential daily living matters, and
20 personal attendant services;

21 (4) "Child", a biological, adopted, or foster son or daughter, a
22 stepson or stepdaughter, a legal ward, a son or daughter of a domestic
23 or civil union partner, or the person to whom the employee stands in
24 loco parentis who is under nineteen years of age or nineteen years of
25 age or older but incapable of self-care because of mental or physical
26 impairment;

27 (5) "Department", the department of labor and industrial
28 relations;

29 (6) "Employee", any person performing service for remuneration
30 unless it is shown to the satisfaction of the department that such
31 services were performed by an independent contractor. In determining
32 the existence of the independent contractor relationship, the common
33 law of agency right to control shall be applied. The common law of
34 agency right to control test shall include but not be limited to: if the
35 alleged employer retains the right to control the manner and means by
36 which the results are to be accomplished, the person who performs the
37 service is an employee. If only the results are controlled, the person
38 performing the service is an independent contractor;

39 (7) "Employer", any person acting directly or indirectly in the
40 interest of an employer in relation to an employee;

41 (8) "Family member", a child, parent, grandparent, grandchild,
42 sibling, spouse, domestic or civil union partner, or household member,
43 or any ward as that term is defined in section 475.010;

44 (9) "Family or medical leave", any of the following:

45 (a) Leave to bond with a minor child within the first year of the
46 child's birth or placement in connection with foster care or adoption;

47 (b) Leave to care for a family member who has a serious health
48 condition;

49 (c) Leave due to an employee's own serious health condition; or

50 (d) Leave to assume any familial responsibility because a spouse,
51 child, or parent of an employee is on, or has been notified of, an

52 **impending call to active duty in the uniformed services;**

53 **(10) "Fund", the Missouri earned family and medical leave fund**
54 **established in section 285.435;**

55 **(11) "Grandchild", a child of the employee's child;**

56 **(12) "Grandparent", a parent of the employee's parent;**

57 **(13) "Health care provider", any physician, hospital, health**
58 **maintenance organization, ambulatory surgical center, long-term care**
59 **facility including those licensed under chapter 198, dentist, registered**
60 **or licensed practical nurse, optometrist, podiatrist, pharmacist,**
61 **chiropractor, physical therapist, psychologist, physician-in-training,**
62 **and any other person or entity that provides health care services under**
63 **the authority of a license or certificate of this state or any other state**
64 **or foreign country;**

65 **(14) "Parent", a biological, foster, or adoptive parent, a parent-in-**
66 **law, a stepparent, a legal guardian, or other person who stood in loco**
67 **parentis to the employee when the employee was a child;**

68 **(15) "Parent-in-law", the parent of a spouse or domestic or civil**
69 **union partner;**

70 **(16) "Serious health condition", an illness, injury, impairment, or**
71 **physical or mental condition that involves inpatient care in a hospital,**
72 **hospice, or residential health care facility, or continuing medical**
73 **treatment or continuing supervision by a health care provider. The**
74 **term shall include medical attention, services, or counseling for victims**
75 **of stalking, domestic violence, abuse, or sexual assault, as such terms**
76 **are defined in section 455.010, or victims of trafficking for the purpose**
77 **of sexual exploitation as described in section 566.209;**

78 **(17) "Sibling", a person related to another person by blood,**
79 **adoption, or affinity through a common legal or biological parent;**

80 **(18) "Spouse", a partner to a lawful marriage;**

81 **(19) "Uniformed services":**

82 **(a) Active and reserve components of the Army, Navy, Air Force,**
83 **Marine Corps, or Coast Guard of the United States;**

84 **(b) The Merchant Marine, the commissioned corps of the Public**
85 **Health Service, or the commissioned corps of the National Oceanic and**
86 **Atmospheric Administration of the United States; or**

87 **(c) The Missouri National Guard.**

285.405. 1. There is hereby established the "Missouri Earned

2 Family and Medical Leave Program" to provide up to six weeks of wage
3 replacement benefits to employees who take time off work for family or
4 medical leave. The department shall administer and implement the
5 program and the provisions of sections 285.400 to 285.440, and shall pay
6 Missouri family or medical leave benefits as specified in such sections.

7 2. An employee shall be eligible to receive Missouri earned
8 family or medical leave program benefits equal to one hundred percent
9 of his or her average weekly pay for each full week during which he or
10 she has taken family or medical leave. An employee may take family or
11 medical leave for a partial week and shall only be eligible to receive
12 the fraction of the average weekly pay which is equal to the number of
13 days of leave taken divided by the number of days for which such
14 employee would have otherwise worked in the respective week had the
15 employee not taken family or medical leave. Any leave taken shall be
16 in full-day increments.

17 3. No more than six weeks of Missouri earned family and medical
18 leave benefits shall be paid to an employee within any fifty-two week
19 period.

20 4. An employee shall file a claim for Missouri earned family and
21 medical leave benefits with the department not later than the forty-first
22 consecutive day following the first compensable day with respect to
23 which the claim is made for benefits, which time shall be extended by
24 the department upon a showing of good cause. If a first claim is not
25 complete, the claim form shall be returned to the employee for
26 completion, and it shall be completed and returned not later than the
27 tenth consecutive day after the date it was verifiably sent by the
28 department to the employee, except that such time shall be extended by
29 the department upon a showing of good cause.

30 5. No employee shall be eligible for Missouri earned family and
31 medical leave program benefits with respect to any day:

32 (1) That he or she is eligible to receive unemployment
33 compensation benefits under chapter 288 or under an unemployment
34 compensation act of any other state or of the federal government; or

35 (2) That he or she has received, or is entitled to receive, any
36 other benefits under chapter 287.

37 6. No employee shall be eligible for Missouri earned family and
38 medical leave benefits until such employee has paid into the Missouri

39 earned family and medical leave fund for fifty-two weeks.

40 7. An employee who is entitled to leave under the Missouri
41 earned family and medical leave act and the Family and Medical Leave
42 Act (FMLA) under 29 U.S.C. Section 2601 et seq. shall take family or
43 medical leave under sections 285.400 to 285.440 concurrent with leave
44 taken under the FMLA.

45 8. The first payment of Missouri earned family and medical leave
46 benefits shall be made to an employee within two weeks after the
47 completed claim is received by the department or the day the family or
48 medical leave began, whichever is later. Subsequent payments shall be
49 made bimonthly.

 285.410. 1. (1) An employee shall establish eligibility for each
2 uninterrupted family or medical care leave period by filing a first claim
3 for benefits supported by the certificate of a treating health care
4 provider that establishes the serious health condition of the family
5 member that warrants the care of the employee, or that establishes the
6 serious health condition of the employee. For subsequent periods of
7 uninterrupted leave after the period covered by the initial certificate
8 or any preceding continued claim, a claimant shall file a continued
9 claim for those benefits supported by the certificate of a treating health
10 care provider.

11 (2) For employees seeking leave in order to assume a familial
12 responsibility due to a spouse, child, or parent being on active duty in
13 the uniformed services, eligibility for leave shall be established by
14 providing, in a manner satisfactory to the department, proof of the
15 family member being on active duty.

16 (3) For employees seeking leave due to a serious health condition
17 related to seeking medical attention, services, or counseling for victims
18 of stalking, domestic violence, abuse, or sexual assault, as such terms
19 are defined in section 455.010, or victims of trafficking for purposes of
20 sexual exploitation as described in section 566.209, the certificate
21 required by subdivision (1) of this subsection may be provided by any
22 of the following:

23 (a) A health care provider;

24 (b) A court which has jurisdiction over a judicial proceeding
25 relating to the serious health condition of the employee or the serious
26 health condition of the family member of the employee; or

27 (c) A law enforcement officer with knowledge of the serious
28 health condition of the employee or the serious health condition of the
29 family member of the employee.

30 2. The certificates required under subsection 1 of this section
31 shall be developed by the department. In order to establish medical
32 eligibility of the serious health condition of the family member that
33 warrants the care of the employee, or to establish medical eligibility of
34 the serious health condition of the employee, the information on the
35 certificate shall be within the physician's or health care provider's
36 knowledge and shall be based on a physical examination and
37 documented medical history of the family member or employee. The
38 certificate shall contain all of the following:

39 (1) A diagnosis and diagnostic code prescribed in the
40 International Classification of Diseases or, if no diagnosis has yet been
41 obtained, a detailed statement of symptoms;

42 (2) The date, if known, on which the condition commenced;

43 (3) The probable duration of the condition;

44 (4) An estimate of the amount of time that the physician or
45 health care provider believes the employee needs to care for the family
46 member or himself or herself; and

47 (5) If applicable, a statement that the serious health condition
48 warrants the participation of the employee to provide care for his or
49 her family member.

50 3. The department shall develop a certificate form that is
51 separate and distinct from the certificate required in subsection 1 of
52 this section for an employee taking leave to bond with a minor child
53 within the first year of the child's birth or placement in connection
54 with foster care or adoption.

55 4. Any claim of an individual who obtains care and treatment
56 outside the state shall be supported by a certificate of a treating health
57 care provider duly licensed or certified by the state or foreign country
58 in which the claimant is receiving care and treatment.

59 5. Nothing in this section shall be construed to preclude the
60 department from requesting additional medical evidence to supplement
61 any claim. Any cost incurred for procuring additional medical evidence
62 shall be paid by the employee. The department may require that the
63 additional evidence include any or all of the following:

- 64 **(1) Identification of diagnoses;**
65 **(2) Identification of symptoms;**
66 **(3) A statement setting forth the facts of the serious health**
67 **condition of the employee or such employee's family member, which**
68 **shall be completed by any of the following individuals:**
69 **(a) The health care provider treating the employee or family**
70 **member of the employee;**
71 **(b) The registrar, authorized medical officer, or other duly**
72 **authorized official of the hospital or health care facility treating the**
73 **employee or family member of the employee; or**
74 **(c) An examining physician or other representative of the**
75 **department;**
76 **(4) An affidavit from an employee averring that the employee or**
77 **such employee's spouse gave birth to a child or has adopted or received**
78 **a child in connection with foster care.**

285.415. Employees shall provide at least thirty days advance
2 notice to their employer before family and medical leave is to begin if
3 the need for the leave is foreseeable. If thirty days notice is not
4 practicable, notice shall be given to the employer as soon as
5 practicable.

285.420. 1. Except as provided in subsection 4 of this section, an
2 employee may file a notice of appeal from any determination of
3 eligibility for benefits made by the department with the administrative
4 hearing commission pursuant to chapter 621. Such appeal shall be
5 made by mail or in person within thirty days after the date on which
6 a copy of the department's decision was received by the employee.

7 2. The administrative hearing commission's proposed decision
8 and order shall be final and not subject to further appeal, unless within
9 thirty days after the decision is served on the interested parties, a
10 party files a petition for judicial review as provided in chapter 536.

11 3. A determination of the amount of benefits payable under
12 sections 285.400 to 285.440 shall not serve as a basis for appeal under
13 this section. However, the determination shall be subject to request by
14 the employee on family or medical leave for redetermination by the
15 department at any time within one year from the date of delivery or
16 mailing of such determination, or any redetermination thereof. A
17 redetermination shall be furnished to the individual in writing.

18 4. A denial of benefits shall become final in the absence of timely
19 appeal therefrom. The department may redetermine a denial of
20 benefits at any time within one year from delivery or mailing of such
21 denial to correct an error in identity, omission of fact, or
22 misapplication of law with respect to the facts.

23 5. A determination of allowance of benefits shall become final in
24 the absence of timely appeal therefrom. The department may
25 redetermine such allowance at any time within two years following the
26 application year in which such allowance was made in order to recover
27 any benefits for which recovery is provided under this section.

28 6. A redetermination of benefits may be made at any time for any
29 of the following reasons:

30 (1) To conform to a final court decision applicable to either an
31 initial determination or a determination of denial or allowance of
32 benefits;

33 (2) In the event of a back pay award or settlement affecting the
34 allowance of benefits; or

35 (3) In the case of misrepresentation or willful failure to report
36 a material fact.

37 Written notice of any such redetermination shall be promptly given by
38 mail or delivered to such interested parties as were notified of the
39 initial determination of denial or allowance of benefits and any new
40 interested party or parties who, under such rule as the department may
41 adopt, would be an interested party.

285.425. 1. Notwithstanding any provision of law to the contrary,
2 it shall be unlawful for any person to discharge or in any other manner
3 discriminate against an employee because the employee has made a
4 claim for, indicated an intent to make a claim for, or received Missouri
5 earned family and medical leave benefits.

6 2. (1) Any person who violates the provisions of subsection 1 of
7 this section shall be liable to any employee of such person who is
8 affected by the violation for such equitable relief as may be appropriate
9 including employment, reinstatement, or promotion and for damages
10 equal to the sum of:

11 (a) The amount of:

12 a. Any wages, salary, employment benefits, or other
13 compensation denied or lost to such individual by reason of the

14 violation; or

15 **b. In a case in which wages, salary, employment benefits, or**
16 **other compensation have not been denied or lost to the individual, any**
17 **actual monetary losses sustained by the individual as a direct result of**
18 **the violation, such as the cost of providing care, up to a sum equal to**
19 **sixty calendar days of wages or salary for the individual;**

20 **(b) The interest on the amount described in paragraph (a) of this**
21 **subdivision, such interest rate being equal to the market rate as**
22 **determined by the director of the division of finance under section**
23 **408.030; and**

24 **(c) An additional amount as liquidated damages equal to the sum**
25 **of the amount described in paragraph (a) of this subdivision and the**
26 **interest described in paragraph (b) of this subdivision, except that if a**
27 **person who has violated subsection 1 of this section proves to the**
28 **satisfaction of the court that the act or omission was in good faith and**
29 **that the person had reasonable grounds for believing that the act or**
30 **omission was not a violation, such court may reduce the amount of such**
31 **liquidated damages.**

32 **(2) The court may additionally require reasonable attorney's**
33 **fees, expert witness fees, and other courts costs to be paid by a**
34 **defendant.**

35 **3. An action to recover the relief prescribed in subsection 2 of**
36 **this section may be maintained against any person in any court of**
37 **competent jurisdiction by the employee affected.**

38 **4. The department may bring an action seeking relief on behalf**
39 **of an employee under this section. The right to bring an action**
40 **provided under subsection 3 of this section shall terminate upon the**
41 **filing of a complaint by the department. If any damages are recovered**
42 **in such action, such damages shall be held in a special deposit account**
43 **and paid directly to each employee affected.**

44 **5. An action may be brought under this section not later than**
45 **three years after the date of the alleged violation for which the action**
46 **is brought. An action brought under this section shall be considered to**
47 **be commenced on the date when the complaint is filed.**

285.430. 1. The department shall develop and implement an
2 **outreach program to ensure that employees who may be eligible to**
3 **receive Missouri earned family and medical leave benefits under**

4 sections 285.400 to 285.440 are made aware of such benefits. Outreach
5 information shall easily explain eligibility requirements, the claims
6 process, weekly benefit amounts, maximum benefits payable, notice and
7 medical certification requirements, reinstatement and
8 nondiscrimination rights, confidentiality, and the relationship between
9 employment protection, leave from employment, wage replacement
10 benefits, and other laws, collective bargaining agreements, and
11 employer policies.

12 2. Not later than three years after the effective date of sections
13 285.400 to 285.440, the state auditor shall submit to the general
14 assembly a report on the Missouri earned family and medical leave
15 benefits paid for any month during the one-year period beginning on
16 the effective date of sections 285.400 to 285.440. The report shall
17 include the following:

18 (1) An identification of the total number of applications for such
19 benefits filed, and the average number of days between when an
20 application is received and when a determination is made;

21 (2) An identification of the total number of requests for review
22 of an initial adverse determination of eligibility for such benefits made,
23 and the average number of days between when such review is
24 requested and when a final determination of eligibility is made; and

25 (3) An identification of the total number of monthly benefit claim
26 reports for such benefits filed, and the average number of days between
27 the date such report is received and the date on which the initial
28 determination of eligibility with respect to the claim report is made.

285.435. 1. (1) There is hereby created in the state treasury the
2 "Missouri Earned Family and Medical Leave Fund", which shall consist
3 of money collected under this section. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180,
5 the state treasurer may approve disbursements. The fund shall be a
6 dedicated fund and money in the fund shall be used solely by the
7 department of labor and industrial relations for the purpose of
8 distributing Missouri earned family and medical leave program
9 benefits.

10 (2) The state treasurer shall invest moneys in the fund in the
11 same manner as other funds are invested. Any interest and moneys
12 earned on such investments shall be credited to the fund.

13 **2. (1) In order to provide funding to implement the provisions**
14 **of sections 285.400 to 285.440, employees shall contribute one quarter**
15 **of one percent of their average weekly pay to the Missouri earned**
16 **family and medical leave fund beginning January 1, 2022.**

17 **(2) For purposes of this section, in determining the average**
18 **weekly pay of an employee, the total wages of an employee shall not**
19 **exceed the contribution and benefit base established by the**
20 **Commissioner of Social Security Administration under 42 U.S.C. 430.**

21 **(3) Notwithstanding the provisions of section 285.405 to the**
22 **contrary, if there is not sufficient resources in the fund, the department**
23 **may, at its discretion, reduce the benefit amount each employee is**
24 **eligible to receive. If the benefit amount is reduced, each employee**
25 **shall receive the same percent of his or her average weekly wage.**

26 **(4) No employee shall receive benefits from the fund until**
27 **January 1, 2023.**

28 **3. Under section 23.253 of the Missouri sunset act:**

29 **(1) The provisions of the new program authorized under sections**
30 **285.400 to 285.440 shall automatically sunset on December 31, 2025,**
31 **unless reauthorized by an act of the general assembly;**

32 **(2) If such program is reauthorized, the program authorized**
33 **under sections 285.400 to 285.440 shall automatically sunset six years**
34 **after the effective date of the reauthorization of such sections; and**

35 **(3) Sections 285.400 to 285.440 shall terminate on September first**
36 **of the calendar year immediately following the calendar year in which**
37 **the program authorized under such sections is sunset.**

285.440. Any rule or portion of a rule, as that term is defined in
2 **section 536.010 that is created under the authority delegated in sections**
3 **285.400 to 285.435 shall become effective only if it complies with and is**
4 **subject to all of the provisions of chapter 536 and, if applicable, section**
5 **536.028. This section and chapter 536 are nonseverable and if any of**
6 **the powers vested with the general assembly pursuant to chapter 536**
7 **to review, to delay the effective date, or to disapprove and annul a rule**
8 **are subsequently held unconstitutional, then the grant of rulemaking**
9 **authority and any rule proposed or adopted after December 3, 2020,**
10 **shall be invalid and void.**

 Section B. This act is hereby submitted to the qualified voters of this state
2 for approval or rejection at an election which is hereby ordered and which shall

3 be held and conducted on Tuesday next following the first Monday in November,
4 2020, pursuant to the laws and constitutional provisions of this state for the
5 submission of referendum measures by the general assembly, and this act shall
6 become effective when approved by a majority of the votes cast thereon at such
7 election and not otherwise.

✓

Unofficial

Bill

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